

**Monitoring Instrument State Agency
and Private Schools Tennessee
Department of Education Division of
Special Education**

1.0 CHILD IDENTIFICATION

1.1 CHILDFIND

20 USC 1412(3)(a), 34 CFR 300.125, .451; TCA 49-10-108; Policies and Procedures, pp. 27-8

- A. The LEA/Agency conducts child find activities to ensure that "all" children within the Agency's jurisdiction, who have disabilities, are located, identified and evaluated.
- B. All children with disabilities include those attending private schools, highly mobile children such as migrant and homeless, and those that are advancing from grade to grade but who may be in need of special education and related services.

1.2 SCREENING

TCA 49-10-108 (b)(2); Policies & Procedures p.29

- A. The LEA/Agency conducts annual screening activities on a systematic basis.
- B. Follow-up on students who fail screening components or appear to be at risk is documented.

1.3 REFERRAL

20 USC 1412.34300.125; TCA49-10-301;TRR & MS 0520-3.09(4); Policies & Procedures, pp.29-31

- A. The LEA /Agency is implementing appropriate referral procedures.
- B. Interventions are attempted, when feasible, before referral for a comprehensive evaluation.

1.4 CENSUS

20 USC 1412; 34b~FR 300.125 and 750-54; TCA 49-10-301, 302; TRR & MS 0520-i -3-.09 (3); Policies and Procedures, p.26.

- A. The LEA/Agency maintains an accurate census of "all" children with disabilities, birth through 21 years.
- B. Disabilities are reported accurately.
- C. Special education and related services are reported accurately.

2.0 ASSESSMENT

2.1 EVALUATION MATERIALS AND PROCEDURES

20 USC 1414; 34 CFR 300.530-536; TRR & MS 0520-1-3-.09 (4); Policies & Procedures pp.32-35, 87-88.

- A. Before any action is taken, with respect to the initial placement of a student with disabilities in a special education program, a full and individual initial evaluation is conducted that provides relevant information that directly assists the IEP Team to determine the educational needs of the student.
- B. Evaluation materials and procedures are not racially or culturally discriminatory and are in the student's native language or mode of communication.

- C. Limited English proficient students are appropriately assessed. Procedures include utilization of an interpreter, translation of tests, modification of testing procedures, and consideration of the language barrier in the analysis of test results.
- D. Tests and other evaluation materials are validated and administered by trained personnel in conformance with the instructions from the test producer.
- E. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from the standard condition must be included in the evaluation report.
- F. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient. Evaluation materials and procedures ensure that when a student with impaired sensory, manual or speaking skills is evaluated, the test results accurately reflect the student's aptitude or achievement level.
- G. No single procedure is used as the sole criterion for determining an appropriate educational program for a student. A variety of assessment tools and strategies are used to gather relevant functional and developmental information by a team or group of persons. Evaluation materials and procedures assess all areas related to the suspected disability, including, when appropriate hearing, vision, hearing, social and emotional status, general intelligence, academic performance, communication skills and motor abilities.
- H. In evaluating each student with a disability, the evaluation is comprehensive enough to identify all of the student's special education and related services needs whether or not commonly linked to the disability category.
- I. The eligibility report includes documentation from each person involved in the assessment process. The IEP-Team, to include the parents and qualified professionals, must meet to determine whether the student meets the criteria for a disability and is in need of special education and related services. A copy of the documentation of determination of eligibility and evaluation reports are provided to the parents.
- J. The eligibility report includes:
 - A statement of physical and/or mental disabilities identified by the assessment process and the basis for the determination;
 - Relevant behavior(s) noted during the observation and the relationship of the behavior(s) to academic functioning;
 - Educationally relevant medical findings, if any;
 - A determination of the presence of a severe discrepancy between educational performance or achievement and grade level, age or ability;
 - Consideration of the effects of environmental, cultural or economical disadvantage on educational performance;
 - Ruling out the lack of instruction in reading, math or limited English proficiency.
- K. Re-evaluation of students with disabilities are conducted every three years or more frequently if conditions warrant or if the student's parent or teacher requests an evaluation.
- L. On the basis of a review of existing evaluation data, parent information, current classroom based assessments and observations, other teachers and related service providers observations, a determination of what additional data ,if any, is needed.

2.2 MENTAL RETARDATION

20 USC 1401, 34 CFR 300.532, Policies and Procedures pp.37-38

- A. An individually administered standardized test of intelligence, such as the Kaufman Instruments, Stanford-Binet, Wechsler Scales, Differential Abilities Test or Woodcock -Johnson Test of Cognitive Abilities indicates a full-scale IQ of 74 or less, including the standard error of measurement.

- B. Adaptive behavior in the home or community is assessed using an appropriate adaptive behavior scale which indicates a significant impairment (provided by the parent or primary caretaker).
- C. Adaptive behavior in the school is determined by a systematic documented observation comparing the student's behavior with students of like age.
- D. The assessment team includes a properly credentialed psychologist and at least one other person from another discipline.

2.3 SPEECH/LANGUAGE IMPAIRMENT

20 USC 1401, 34 CFR 300.532, Policies and Procedures pp.33, 3941

- A. An observation is completed.
- B. Hearing screening results are recorded.
- C. Oral-peripheral examination results are documented (not required for language impairment).
- D. Language assessment includes measures of receptive and expressive language and auditory perception.
- E. Articulation assessment includes a standardized measure of articulation and phoneme analysis in conversational speech.
- F. Voice assessment includes analysis of pitch, intensity and quality in addition to an examination by an otolaryngologist.
- G. Fluency assessment includes objective measures of fluent and non-fluent behaviors, attitude rating scale, and anecdotal records from the student, parent and teacher.
- H. The assessment team includes a qualified speech/language specialist and at least one other person from another discipline.

2.4 HARD OF HEARING/DEAF

20 USC 1401, 34 CFR 300.532, Policies and Procedures pp.33,42

- A. An observation is completed.
- B. An audiological evaluation is conducted by a licensed physician or an audiologist.
- C. Speech and language performance is assessed.
- D. School history and current levels of educational performance are documented.
- E. The assessment determines the presence of one or more of the following characteristics:
 - Inability to communicate effectively due to hearing impairment;
 - Inability to perform academically on a level commensurate with the expected level due to hearing impairment;
 - Delayed language development due to hearing impairment.
- F. The assessment team includes a physician and audiologist; and speech/ language specialist, and/or certified teacher of the hearing impaired.

2.5 VISUAL IMPAIRMENT

20 USC 1401, 34 CFR 300.532, Policies and Procedures pp.33,43-44

- A. An eye report from an ophthalmologist or optometrist indicates one or more of the following conditions:
- Distant visual acuity of 20/50 or less in the better eye after correction;
 - Near visual acuity of 20/50 or less in the better eye after correction;
 - Central visual field loss of any degree in both eyes;
 - Remaining peripheral visual field no greater than 60 degrees;
 - Ocular disorder associated with structural defects, such as cataracts, strabismus or detached retina;
 - Ocular disorder associated with a disease, such as diabetes, rubella or albinism;
 - Progressive loss of sight which may affect ability to learn visually.
- B. A functional vision report documents observation of visual behaviors, educational implications of the eye condition, levels of communication and/or compensatory skills.
- C. Educational performance is assessed.
- D. The assessment team includes an ophthalmologist or optometrist and a certified teacher of the visionally impaired.

2.6 ORTHOPEDIC IMPAIRMENT

20 USC 1401, 34 CFR 300.532, Policies and Procedures, pp.33, 45.

- A. An observation is completed.
- B. Social and physical adaptive behaviors related to the impairment are documented.
- C. School history and educational performance are assessed.
- D. A medical report from a licensed physician documents the physical impairment
- E. The assessment team includes a licensed physician and at least one other person from another discipline.

2.7 TRAUMATIC BRAIN INJURY

20 USC 1401, 34 CFR 300.532, Policies and Procedures pp. 33, 46-47.

- A. An observation is completed.
- B. Social and physical adaptive behaviors related to the injury are documented.
- C. School history and educational performance are assessed.
- D. A medical report from a licensed physician documents the injury.
- E. The assessment team includes a licensed physician and at least one other person from another discipline.

2.8 HEALTH IMPAIRMENT

20 USC 1401, 34 CFR 300.532, Policies & Procedures pp.33, 47-48.

- A. An observation is completed.
- B. Social and physical adaptive behaviors related to the impairment are documented.
- C. School history and educational performance are assessed.
- D. A medical report from a licensed physician documents the health impairment.
- E. The assessment team includes a licensed physician and at least one other person from another discipline.

2.9 AUTISM

20 USC 1401, 34 CFR 300.532, Policies & Procedures pp.33, 49.

- A. A parental interview documents developmental history.
- B. Behavioral observations in two or more settings are conducted.
- C. A medical report from a licensed physician documents physical and neurological information.
- D. Intelligence, speech/language, adaptive behavior and educational needs are assessed utilizing formal and/or informal tests.
- E. The assessment team includes either a licensed psychiatrist, a licensed psychologist or a certified school psychologist; a licensed physician; and a speech/language specialist.

2.10 SPECIFIC LEARNING DISABILITY

20 USC 1401, 34 CFR 300.532, 540-543, Policies Procedures pp.33, 50-52.

- A. Observations of classroom behaviors and academic performance are documented by the regular classroom teacher and another specialist (in the case of a child not in school, the observation should be conducted in an appropriate environment).
- B. Intelligence is assessed with appropriate tests such as the Kaufman Instruments, Stanford-Binet, Wechsler Scales, Differential Abilities Test or Woodcock -Johnson Test of Cognitive Abilities.
- C. A discrepancy of more than one standard deviation between intellectual functioning and assessed achievement is exhibited in one or more of the following areas:
 - Listening comprehension Reading comprehension;
 - Written expression; Basic Reading Skills.
 - Oral expression; Math calculation and reasoning
- D. In cases where the specialists determine that assessment measures did not accurately reflect the discrepancy between academic functioning and intellectual functioning, appropriate documentation must be used to verify the discrepancy.
- E. The discrepancy between ability and achievement is not primarily the result of one of the following:
 - Visual, hearing or motor impairment;
 - Mental retardation;
 - Emotional disturbance;
 - Environmental, cultural or economic disadvantage.
- F. The assessment team includes the student's regular classroom teacher, a properly credentialed psychologist and other specialists as designated.

2.11 EMOTIONAL DISTURBANCE

20 USC 1401, 34 CFR 300.532, Policies and Procedures pp.33, 52-54.

- A. Screening results indicate that vision and hearing problems are not the cause of abnormal behavior.
- B. Medical problems are not the cause of abnormal behavior.
- C. Social history is conducted.
- D. Specific behavioral data includes a description of previous educational adjustments or interventions.
- E. A direct observation is conducted by someone other than the referring person.
- F. Intelligence is assessed with appropriate tests such as the Kaufman Instruments, Stanford-Binet, Wechsler Scales, Differential Abilities Test or Woodcock -Johnson Test of Cognitive Abilities.
- G. Personality may be assessed.
- H. Current and past educational performance is reviewed to determine student's strengths and weaknesses.
- I. The assessment determines the presence of one or more of the following conditions:
 - Inability to learn which cannot be explained primarily by intellectual, sensory, health, or specific learning disability factors;
 - Inability to build or maintain satisfactory interpersonal relationships with peers, teachers and other significant persons
 - Inappropriate types of behavior or feelings under normal circumstances;
 - General pervasive mood of unhappiness or depression;
 - Tendency to develop physical symptoms or fears associated with personal or school problems.
- J. The assessment team includes a properly credentialed psychologist or psychiatrist and at least one other person from another discipline.

2.12 MULTIPLE DISABILITIES

20 USC 1401, 34 CFR 300.532, Policies and Procedures, p.54.

- A. A student with multiple disabilities is evaluated by the procedures for each disability and meets the criteria for two or more severe disabilities.
- B. The assessment team includes persons designated for each disability indicated.

2.13 DEVELOPMENTALLY DELAYED

20 USC 1401, TCA49-10-102, Policies and Procedures p.57.

- A. For a child age three through nine, the functioning level is more than 1.5 standard deviations below the mean or a 25% delay based on chronological age developmentally in two or more areas OR 2.0 standard deviations below the mean or 40% delay based on chronological age in one of the following developmental areas:
 - Physical Development;
 - Cognitive Development;
 - Communication Development;
 - Social/Emotional Development
 - Adaptive Development.

- B. An observation is conducted in the natural environment.
- C. Vision and hearing screenings are conducted. S
- D. The assessment team includes two of the following: a parent, properly credentialed psychologist, physician, or early childhood teacher.

2.14 FUNCTIONALLY DELAYED

TCA 49-10-102, Policies and Procedures p.57.

- A. An individually administered standardized test of intelligence such as the Kaufman Instruments, Stanford-Binet, Wechsler Scales, Differential Abilities Test or Woodcock-Johnson Test of Cognitive Abilities indicates a full-scale IQ of 74 or less, including the standard error of measure.
- B. Adaptive behavior in the home or community is determined by results from adaptive behavior scales such as the Vineland-R or AAMD-ABS, which indicate adaptive behavior is not significantly impaired. The primary caretaker is used as the informant in completing adaptive measures or attempts to contact this person are documented if another informant was used.
- C. Adaptive behavior in the school is determined by a systematic documented observation comparing the student's behavior with students of like age or an appropriate individualized standardized instrument.

~: Individually administered standardized achievement test scores are at or below the 4th percentile in two or more of the following areas:

- Basic reading skills;
- Reading comprehension;
- Mathematics computation;
- Mathematics reasoning

2.15 INTELLECTUAL GIFTEDNESS

TCA 49-10-102, Policies and Procedures, pp.33, 55-56.

- A. An observation is completed.
- B. Intelligence is assessed with an appropriate test such as Kaufman Instruments, Stanford-Binet, Wechsler, Differential Abilities Test or Woodcock- Johnson Test of Cognitive Abilities.
- C. The assessment indicates the presence of two or more of the following criteria:
 - Intellectual functioning at least two standard deviations above the mean, considering the standard error of measure;\
 - Achievement results at or above the 96th percentile in reading, language arts, mathematics, science or social studies;
 - Ideas or projects demonstrating superior intellectual ability in an academic area.
- D. The assessment team includes a teacher, a properly credentialed psychologist, a person properly credentialed in gifted education and at least one other person from another discipline.

3.0 INDIVIDUALIZED EDUCATION PROGRAM TEAM

3.1 MEETINGS

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20 USC 1414, 34 CFR 300.132, 34345; TRR & MS
0520-1-2.09(4); and Policies and Procedures pp.58-60, 65, 86.

- A. IEP-Team meetings to determine eligibility are conducted following evaluation or re-evaluation and to develop an IEP(within 30 days of eligibility determination).
- B. IEP-Team meetings to review each student's IEP are conducted periodically, but not less than annually, to determine whether the annual goals are being achieved and to revise the IEP as appropriate to address the following:
 - Any lack of expected progress toward the annual goals and in the general curriculum;
 - The results of any re-evaluation conducted under this section;
 - Information about the child provided to or by the parents;
 - The child's anticipated needs and other matters.
- C. Upon written request of any member, IEP-Teams are convened within ten(10) school days of receipt to review/revise the current IEP and/or placement.
- D. IEP-Teams include the following members:
 - Parents of a child with a disability;
 - At least one regular education teacher of the child(if the child is or may be participating in the regular education environment)
 - At least one special education teacher(provider} of the child;
 - A representative of the local education agency who is qualified to supervise the provision of specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources;
 - An individual who can interpret the instructional implications of the evaluation results(may be one of the above school personnel)
 - Student, if appropriate; and,
 - At the discretion of the parents or the local education agency, other individuals who have knowledge or special expertise regarding the child including related services personnel as appropriate.
- E. For students with disabilities, age 14 years or younger if appropriate, whose need for transition services is being considered, LEAs/Agency ensure that any meeting to develop, review or revise an IEP includes:
 - Parent
 - A representative from the LEA/Agency responsible for providing or supervising the provision of transition services;
 - A representative of each agency delivering the transition services of the IEP; and,
 - The student.
- F. If the student does not attend an IEP-Team meeting to consider transition services, the public agency takes other steps to ensure that the student's preferences and interests are considered.
- G. If an agency invited to send a representative to a meeting does not do so, the LEA/Agency takes other steps to obtain the participation of the other agency in the planning of any transition service.
- H. If a participating agency, other than the local education agency responsible for a student's education, fails to provide transition services prescribed in the IEP, the public agency responsible for the student reconvenes an IEP-Team meeting to identify alternative strategies to implement the recommended transition services.

- I. An IEP Team meeting may be conducted without a parent in attendance if the local education agency is unable to convince the parents they should attend, the agency must document attempts to arrange the meeting.

3.2 PROCEDURES FOR PARENT PARTICIPATION

20 USC 1412, 34 CFR 300.345, TRR & MS 0520-1-3-.09(5)(b)(c); Policies and Procedures, pp.95-96, 68.

- A. Parents are notified in writing early enough to ensure that they will have an opportunity to attend the IEP Team meeting before it is held to:
- develop, review/revise the IEP; and/or
 - discuss needed transition services.
- B. IEP-Team meetings are scheduled at a mutually agreed upon time and place.
- C. IEP-Team meeting notification includes:
- Purpose, time and location;
 - Persons who will attend;
 - Parent's right to be accompanied by knowledgeable others.
 - Invitation to student and agency representative when discussing needed transition services, if appropriate.
- D. If neither parent can attend, the local education agency shall use other methods to ensure parent participation, including individual or conference calls.
- E. The local education agency shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP Team meeting. An interpreter is provided for parents who are deaf or whose native language is other than English.
- F. The LEA/Agency shall give the parents a copy of the student's IEP at no cost to the parent. A copy is sent to parents when not in attendance.

4.0 INDIVIDUALIZED EDUCATION PROGRAM

4.1 DEVELOPMENT OF IEP

20 USC 1414, 34 CFR 300.34142, 346; TRR & MS 0520-1-3-.09(4); and Policies and Procedures pp.66-67.

- A. An IEP is developed for each student with disabilities needing special education and is in effect at the beginning of each school year.
- B. IEPs are in effect before special education and related services begin. *
- C. In developing each student's IEP, the IEP-Team shall consider:
- The strength~of the child and concerns of the parents for enhancing the education of the child;
 - The results of the initial evaluation or most recent evaluation of the child; and,
 - The following special factors:
 1. Behavior;
 2. Limited English proficiency;
 3. Braille;
 4. Communication needs; and,
 5. Assistive technology.
- D. The student's IEP is accessible to each regular and special education teacher and/or related service provider to inform them of their specific responsibilities in implementing the IEP with accommodations, modifications and supports for the student.

4.2 CONTENTS OF IEP

20 USC 1414, 34 CFR 300~303, 306-7,309,.347; TRR & MS 0520-1-3-.09(4)(b) (2); and Policies and Procedures pp.61 - 66 -

- A. A statement of the child's present levels of educational performance including:
 - How the child's disability affects his/her involvement and progress in the general curriculum; or,
 - For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities.
- B. A statement of measurable annual goals, including benchmarks or short-term objectives related to:
 - Meeting the child's needs that result from the child's disability to enable the child to be involved and progress in the general curriculum; and,
 - Meeting each of the child's other educational needs that result from the child's disability.
- C. A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:
 - To advance appropriately toward the annual goals;
 - To be involved and progress in the general curriculum and
 - To participate in extra-curricular and other non-academic activities;
 - To be educated and participate with other children with disabilities and non-disabled children in the activities.
- D. An explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular curriculum and in extra-curricular activities.
- E. A statement of any individual modifications in the administration of state or district-wide assessments of student achievement that are needed in order for the child to participate in such assessments.
- F. If the IEP-Team determines that the child will not participate in a particular state or district-wide assessment of student achievement, a statement of why that assessment is not appropriate for the child and how the child will be assessed is documented.
- G. The projected date for the beginning of services, the anticipated frequency, location, and duration of these services and modifications are documented.
- H. Beginning at age 14, and updated annually, a statement of the transition service needs of the child that focuses on his/her courses of study.

Beginning at age 16, or younger if appropriate, a statement of the transition service needs of the child including a statement of the interagency responsibilities or any needed linkages.
- J. Physical education services, specially designed if necessary, must be available to every student with a disability. Each student with a disability is afforded the opportunity to participate in the regular physical education program.
- K. Beginning at least one year before the child reaches the age of majority under state law, a statement that the child has been informed of his or her rights that will transfer to the child on reaching the age of majority.
- L. Hearing aids worn by students with hearing impairments are checked periodically by qualified personnel for proper functioning
- M. Extended school year (ESY) services have been considered at least annually as necessary to provide FAPE. It should not be limited to particular categories of disability or type, amount or duration of services.

N. A statement regarding:

- How the child's progress toward the annual goals will be measured;
- How the child's parents will be regularly informed of the progress toward the annual goals(as often as the non-disabled); and,
- The extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

4.3 PLACEMENT

20 USC 1412, 34 CFR 300.302, .552, TRR & MS 0502-1-1-09(4); Policies and Procedures pp.30, 67

- A. Placement occurs within forty (40) school days from the time of receipt of consent for a comprehensive evaluation.
- B. Placement decisions are made by the IEP-Team at no cost to the parents. The team is knowledgeable about the student, the meaning of evaluation and placement options in the least restrictive environment.
- C. The child's placement is determined at least annually, is based on the child's IEP and is as close as possible to the child's home.
- B Placement is made in classroom settings and schools that are appropriate to the student's chronological age.
- E. "Interim placements" for eligible students are made only when it is part of the educational process as an aid in determining appropriate placement before the IEP is finalized. An "interim IEP" is developed with specific timelines not exceeding 30 calendar days.
- F. Placement recommendations are not based on the category of the disability or on the configuration of the current service delivery system.

5.0 PROGRAMS AND SERVICES

5.1 EDUCATION PROGRAMS

20 USC 1412, 34 CFR 300.9, .300, .305, .311.350; TRR & MS 0520-1-3.02(1), 0520~1-3-.06(1)(a); Policies and Procedures pp.11,33.

- A. If services are needed, an educational program is available to all students with disabilities(including children who have been suspended, expelled or incarcerated) beginning at age 3 and continuing through the end of the school year during which the 22nd birthday is attained.
- B. Students with disabilities have available to them a variety of educational programs and a continuum of services that are available to non-disabled students served by the agency.
- C. IEPs are implemented as developed. Each local education agency will provide special education and related services to a student with a disability in accordance with the student's IEP.
- D. Students with disabilities receive a full day of instruction comparable to the non-disabled unless the IEP-Team determines the need for an abbreviated school day.
- E. Vocational assessments are conducted for all students with disabilities by age 14 if appropriate
- F. Students with disabilities have available the following types of diplomas upon graduation:
- Honors diploma;
 - Regular diploma;
 - Certificate of attendance;
 - Special education diploma.

6.2 LEAST RESTRICTIVE ENVIRONMENT

20 USC 1412, 34 CFR 300.550-552; TRR & MS 0520-1-3-.09(4)(c);
Policies and Procedures pp.69-74.

- A. Each LEA/Agency shall ensure that to the maximum extent appropriate, students with disabilities, including those in public or private institutions, are educated with non-disabled students.
- B. Special classes, separate schooling or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved.
- C. A continuum of alternative placements is available to meet the needs of students with disabilities.
- D. Unless the IEP of the student with a disability requires some other arrangement, the student is educated in the school that he/she would attend if non-disabled.
- E. Students with disabilities are placed in schools/classrooms which are age appropriate and are not removed solely because of needed modifications in the general curriculum.
- F. Non-academic and extra-curricular services and activities are provided to afford students with disabilities equal opportunity for participation in those activities and services.
- G. Placement recommendations are not based on the category of disability or on the configuration of the current delivery system.

6.0 PROCEDURAL SAFEGUARDS

6.1 NOTICE

20 USC 1415.34 CFR 300.127,.5034,.561 CFR 99.31 FERPA; EDGAR
34 CFR 76.734; TRR & MS 0520-1-3-.Q9(5), TCA 49-10-601(e)(2); Policies and Procedures pp.93-102

- A. Written prior notice is provided to the parents of the child whenever such agency proposes to initiate or change, or refuses to initiate or change, the identification, evaluation or educational placement of the child, or the provision of a free appropriate public education to the child. The written prior notice shall include:
 - A description of the action proposed or refused by the agency;
 - An explanation of why the agency proposes or refuses to take the action;
 - A description of any other options that the agency considered and the reasons why those options were rejected;
 - A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposed or refused action;
 - A description of any other options that the agency considered and the reasons why those options were rejected;
 - A description of any other factors that are relevant to the agency's proposal or refusal;
 - A statement that the parents of a child with a disability have protection under the procedural safeguards of this part, and, if this notice is not an initial referral for an evaluation, the means by which a copy of a description of the procedural safeguards can be obtained.
 - Sources for the parents to contact to obtain assistance in understanding the provision of this part; and, Notice is written in language understandable to the general public and in the parent's native language. If the native language of the parent is not a written language, the LEA shall take steps to ensure that the notice is translated orally or by other means to the parent in their native language or other mode of communication. The parent shall understand the content of the notice and there is written evidence that these requirements have been met.

- B. In addition, procedural safeguards notices:
- must be given to parents, at a minimum, upon initial referral for an evaluation at each IEP Team meeting, at re-evaluation, and upon receipt of request for due process;
 - content must include a full explanation of all of the procedural safeguards under 300.403, .500-.529 and .560-.577 and the 'State complaint procedures available under 300.660-.662(Rights Brochure);
 - must include a description of any other options that the local education agency considered and the reason why those options were rejected.
- D. Other notices must be given to parents to include
- A description of the policies and procedures to ensure protection of the confidentiality of any personally identifiable information collected, used or maintained by the LEA/Agency;
 - A summary of policies and procedures regarding storage, closure to third parties, and retention and destruction of records;
 - A description of all the rights of parents and students regarding this information, including rights under FERPA and 34 CFR Part 99;
 - Before any major identification, location or evaluation activity, the notice must be published or announced in newspapers or other media with adequate circulation.

6.2 CONSENT

20 USC 1415, 34 CFR 300.505, CFR 99 FERPA

- A. Parental consent must be obtained before:
- Conducting an initial evaluation or reevaluation
 - Initial placement for special education and related services.
 - Release of information to any persons or agencies other than a LEA
- B. The release form includes:
- The parent's dated signature;
 - A description of the records to be disclosed;
 - The purpose of the disclosure;
 - The name of the recipient person or agency.

6.3 INDEPENDENT EDUCATIONAL EVALUATION

20 USC 1415, CFR 300.502

- A. The parents of a student with a disability have the right to obtain an independent educational evaluation. Each local education agency shall provide information about where an independent educational evaluation may be obtained and the criteria applicable for this evaluation
- B. An independent evaluation is conducted at public expense when a parent disagrees with the agency's evaluation, unless the agency requests a hearing and the hearing officer determines that the agency's evaluation is appropriate.
- C. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation must be considered by the LEA in any decision made with respect to the provision of FAPE to the child and may be presented as evidence at a hearing.

6.4 SURROGATE PARENT

20 USC 1415., 34 CFR 300.20, .515; TRR & MS 0520-1-3-.09(5)(a)2; Policies and Procedures, pp.89-93.

- A. A surrogate parent is assigned to a student when no parent can be identified or located or when the student is placed in state custody and the parent's rights to make educational decisions for the student have been terminated. The surrogate parent represents the student in all matters relative to identification, evaluation and educational placement.
- B. Trained surrogate parents are available.
- C. Surrogate parents meet these requirements:
 - Have no vested interest conflicting with the welfare of the student represented;
 - Are thoroughly acquainted with the student's educational needs;
 - Are not employees of the agency involved in the education or care of the student (A person who otherwise qualifies to be a surrogate parent is not considered to be an employee of the agency solely because of payment for services as a surrogate).
- D. A foster parent is recognized as the student's "parent" for educational purposes provided that the foster parent:
 - Has an on-going, long-term parental relationship with the student (at least one year);
 - Manifests an intention to continue to provide long-term foster care for the student and is willing to make educational decisions required as a parent as defined by 34 CFR 300.20.

6.5 CONFIDENTIALITY

20 USC 1415; 34 CFR 300.560-577, 34 CFR 99 FERPA; TRR & MS 0520-1-3-.09(5)(e); Policies and Procedures 98-102.

- A. The agency has policies regarding the confidentiality of personally identifiable information and the uses to be made of the information, procedures for storage, disclosure to third parties and its retention and destruction.
- B. Personally identifiable information is protected and kept in a secure place.
- C. A record of persons obtaining access to student records is maintained. The record includes the name of the student, the name of the person obtaining access, the date, and the purpose. Parents and authorized personnel are excluded from this requirement.
- D. A list of the names and positions of persons who have a need to access student's records is maintained for public inspection.
- E. Parents are permitted to review educational records collected, maintained, or used by the agency in the identification, evaluation, or placement of their children.
- F. The agency complies with parental requests to review individual records without unnecessary delay, before any meeting regarding the student, and in no case no more than 45 days after the request is made.
- G. Parents are provided copies of their children's educational records upon request. Fees may be charged for copies but not for search and retrieval. Fees for copies cannot be charged if doing so effectively prevents parents from fully exercising their rights to inspect and review records.
- H. Parents' representatives are allowed to inspect and review records.
- I. The agency presumes that either parent has full authority under the act to inspect and review records relating to his/her child unless the agency is advised that the parent does not have such authority under applicable state law governing guardianship, separation and divorce.

- J. If educational records include information on more than one student, a parent is allowed to inspect and review only the information pertaining to his/her child.
- K. Annual notice is provided parents regarding types of student records maintained by the agency and where/how they may be accessed.
- L. Parents request to amend their children's educational records, which are alleged to be misleading or in violation of the student's privacy or other rights, are processed within a reasonable time (within 45 days).
- M. When the agency denies a request to amend a record, it informs the parent of his/her right for a hearing to challenge information in the educational records to ensure that it is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child.
- N. If as a result of a hearing, the agency decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency. The explanation must be maintained as part of the record of the child as long as the record or contested portion is maintained and such explanation shall be released if the contested portion of the record is released.
- O. Parental consent is not required before disclosure of personally identifiable information to school officials within the LEA, another LEA in which a student intends to enroll, authorized state or other authorities authorized by statute or judicial order to receive such information.
- P. The agency informs parents when personally identifiable information collected, maintained or used is no longer needed to provide educational services.

6.6 DISCIPLINE OF STUDENTS WITH DISABILITIES
20 USC 1415, 34 CFR 300.121, .519-24, .527, TRR & MS 0520-1-3-09(9);

- A. All students with disabilities aged 3 through 21 residing in the local education agency's jurisdiction have a right to FAPE, including students who have been suspended or expelled from school.
- B. Students with disabilities must receive educational services:
 - After removal for more than 10 school days
 - If a change of placement to an interim alternative educational setting for not more than 45 days occurs if the student:
 - 1. carries a weapon to school or to a school function;
 - 2. knowingly possesses or uses illegal drugs or solicits the sale of a controlled substance while at school or a school function.
 - If the student is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year due to such factors as:
 - 1. the length of each removal;
 - 2. the total amount of time the student is removed;
 - 3. the proximity of the removals to one another.
- C. Within 10 days of the above disciplinary action:
 - If the LEA did not conduct a functional behavioral assessment and implement a behavioral intervention plan, the LEA shall convene an IEP Team meeting to develop an assessment plan;
 - If a functional behavioral assessment or intervention plan does exist, the IEP Team shall meet to review the plan and its implementation, and, modify the plan as necessary to address the behavior.
- D. A manifestation determination review meeting shall be conducted by the IEP- Team no later than 10 school days after the date on which the decision to take action is made.

- E. Any interim alternative educational setting shall be:
- determined by the IEP Team;
 - selected to enable the student to continue to participate in the general curriculum and to receive those services and modifications that will enable the student to meet the goals set out in the IEP; and,
 - provided services and modifications to address the behavior to prevent it from recurring.
- F. If a removal is not more than 10 school days at a time; school personnel in consultation with the student's special education teacher, can make the determination regarding services to the student.
- G. Any student not yet eligible for special education and related services, who has violated any rule or code of conduct of the local education agency, may assert any of the protections prescribed for students with disabilities if the local education agency had knowledge that the student was a child with a disability before the behavior and discipline action occurred.

7.0 SERVICES TO PRIVATE SCHOOL STUDENTS

7.1 STUDENTS PLACED BY LEA

20 USC 1415, 34 CFR 300.349 and 34 CFR 300.401, 402;
TCA 49-10-103(h); TRR & MS 0520-1-3-.09(6); Policies and
Procedures pp.117, 119-120.

- A. Private school students placed by the LEA have all the rights of students with disabilities who are served by the LEA.

7.2 STUDENTS PLACED BY PARENTS

20 USC 1415, 34 CFR 300.403, 450461; TCA 49-10-103 (h); Policies and Procedures pp.119-120.

- A. Private schools are advised of the availability of special education and related services and asked to provide input for the services to be provided.
- B. No private school student with a disability has an individual right to receive some or all of the special education services received in a public school.
- C. If an eligible child is enrolled in a parochial or other private school and receives special education or related services, the LEA/Agency conducts the IEP-Team meeting to develop a service plan for the child.
- D. Disagreements between parents and the child's LEA regarding FAPE are subject to the due process procedures. Notice regarding procedures for parents to follow if their intentions are to enroll their child in a private school must be provided by the LEA.

8.0 FACILITIES

8.1 APPROPRIATE FACILITIES

20 USC 1404; 34 CFR 104.21-.22, Section 504 104.34 (c);
TRR & MS 0520-1-3-.09(4)(d)(6), 0520-14-01; Policies and
Procedures p.85, 28 CFR 35.149-151.

- A. Facilities for students with disabilities are comparable to facilities for non-disabled students.
- B. Educational programs are accessible at each grade level where physically disabled students are in attendance within the agency.
- C. Restrooms, water fountains and other facilities, such as library, cafeteria, gymnasium, are accessible in schools attended by students with physical disabilities.
- D. Provisions shall be made for loading and unloading children with disabilities who require special transportation. The school site shall have appropriate parking spaces and ramps. If the front of the building is not used then access signs must be present to indicate entrance location.

9.0 TRANSPORTATION

9.1 SPECIAL TRANSPORTATION

20 USC 1401,12; 34 CFR 300.24,.456; TCA 49-6-2105; TRR & MS
0520-1-3-.09(4)(d)(4)(ii) and 0520-1-5-.02(2); Policies and Procedures
p.83.

- A. Special transportation is provided to students with disabilities when necessary and is documented by the IEP-Team on the IEP.
- B. Special transportation is provided only when regular transportation is not appropriate to the needs of the student and sufficient modifications cannot be made.
- C. Special attendants are provided if deemed necessary by IEP-Team.
- F. Transportation for private school students, if necessary, must be provided.

10.0 COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

10.1 TRAINED PERSONNEL

20 USC 1411-13; 34 CFR 300.221,.38⁰⁻⁸²; TCA49-1-203; TRR & MS
0520-1-2-.03; Policies and Procedures, p.81-8³.

- A. Teachers are endorsed by the State Department of Education in their assigned areas of instruction and have been granted waivers or permits or otherwise meet employment standards.
- B. Supervisors of special education have endorsement in supervision or administration and three years experience in special education or have endorsement in at least one area of special education. a Master's degree and three years experience in special education.
- C. Non-teaching professionals providing services to students with disabilities have appropriate licensure.
- D. Attendants, teacher assistants and other paraprofessional personnel providing services to students with disabilities have appropriate licensure/credentials or appropriate training for the position.
- E. The comprehensive plan projects special education staff sufficient in number to meet identified needs of the LEA.

10.2 INSERVICE TRAINING

20 USC 1401,12,14; 34 CFR 300.24, .382; TCA 49-6-3004(a)(3);

Policies and Procedures p.82.

- A. An assessment of in-service training needs of personnel providing services to students with disabilities is documented.
- B. Appropriate in-service activities are provided to special education and related services personnel, regular education teachers and administrators.
- C. Provide for the joint training of parents and special education, related services and general education personnel.

11.0 ADMINISTRATION

11.1 FISCAL ADMINISTRATION

TCA 49-3-3-6; TRR & MS 0520-1-3-.09(3)(c); Policies and Procedures pp.13-15,17-19; 34 CFR 300.381-.382, .230, 34 CFR Part 76, 34 CFR 76.50 EDGAR, 34 CFR 80.32, 34 CFR Part 76, 34 CFR 80.23.

- A. Agreements for services provided by other agencies are set forth in written contracts.
- B. Contracts for full-time programs for individual students with disabilities are approved by the Commissioner of Education.
- C. Materials, supplies and equipment purchased with federal funds are used for students with disabilities except for incidental benefit.
- D. The agency maintains an inventory of equipment purchased with federal funds. It includes:
 - Description of the equipment;
 - Identification number;
 - Funding grant from which the equipment was purchased;
 - Acquisition date;
 - Location, use, condition and date of last physical inventory;
 - Description of disposition if no longer in use.
- E. Equipment purchased under specific grants is properly labeled.
- G. Responsibilities of staff funded by federal grants are limited to the provision of services to students with disabilities with the exception of the incidental benefit rule.
- G. All contracts paid in full or in part with federal funds are for the provision of services to students with disabilities.